

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

WILLIAM HOWDEN,

Plaintiff,

v.

CIV. 14-459 MCA/GBW

GREGG MARCANTEL, *et al.*,

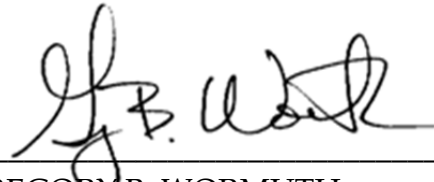
Defendants.

**PROPOSED FINDINGS AND RECOMMENDED DISPOSITION**

This matter comes before the Court pursuant to Plaintiff's Motion Requesting Approval for Certification of a Class. *Doc. 4*. Plaintiff is a *pro se* prisoner currently incarcerated at the Otero County Prison Facility (OCPF) in Chaparral, New Mexico. *Doc. 1* at 2. On May 15, 2014, Plaintiff filed the instant action under 42 U.S.C. § 1983 for violations of his constitutional rights that allegedly took place during the transit of he and eleven fellow inmates from Northeast New Mexico Detention Facility to OCPF on July 24, 2013. *Doc. 1* at 6.

Plaintiff seeks to initiate a class action suit under Federal Rule of Civil Procedure 23. *Doc. 4* at 1. In support of his Motion for Certification of a Class, Plaintiff attaches affidavits from inmates who were transferred with him to OCPF, which attest to the conditions of the transportation and the alleged constitutional violations the inmates suffered.

Having considered Plaintiff's motion and the relevant law, I recommend that his Motion for Class Action Certification be denied. "Under Rule 23(a)(4), a class representative must 'fairly and adequately protect the interests of the class.' A litigant may bring his own claims to federal court without counsel, but not the claims of others. This is so because the competence of a layman is 'clearly too limited to allow him to risk the rights of others.' " *Fymbo v. State Farm Fire and Cas. Co.*, 213 F.3d 1320, 1321 (10th Cir. 2000) (quoting *Oxendine v. Williams*, 509 F.2d 1405, 1407 (4th Cir. 1975)). Because Plaintiff does not meet the requirements of Federal Rule of Civil Procedure 23, I recommend that the Court deny this motion.



GREGORY B. WORMUTH  
UNITED STATES MAGISTRATE JUDGE

**THE PARTIES ARE FURTHER NOTIFIED THAT WITHIN 14 DAYS OF SERVICE of a copy of these Proposed Findings and Recommended Disposition they may file written objections with the Clerk of the District Court pursuant to 28 U.S.C. § 636(b)(1). A party must file any objections with the Clerk of the District Court within the fourteen-day period if that party wants to have appellate review of the proposed findings and recommended disposition. If no objections are filed, no appellate review will be allowed.**